

California Forms 593-C, 593-L, and Instructions



For Individual Sellers of California Real Property
(Effective for escrows closing on or after January 1, 2003)
Form 593-C, Real Estate Withholding Certificate for Individual
Sellers
Form 593-L, Real Estate Withholding – Computation of Gain or
Loss

*Individuals can use this booklet to certify whether or not they are subject
to real estate withholding.*

General Information

2003 Tax Law Changes

In addition to nonresident individuals and non-individuals, withholding is now required when resident individuals sell California real property and the escrow closes on or after January 1, 2003.

Purpose

When individuals sell California real estate, the buyers must withhold $3\frac{1}{3}$ percent of the total sales price and submit it to the California Franchise Tax Board. (California Revenue and Taxation Code Section 18662)

If you are a seller, your buyer does not need to withhold if: the sales price does not exceed \$100,000; the property is being acquired in foreclosure by a corporate mortgagee; or, you meet certain requirements.

- Use Form 593-C, *Real Estate Withholding Certificate for Individual Sellers*, to determine if you are subject to full or partial withholding, or if you are exempt from withholding.
- Use Form 593-L, *Computation of Gain or Loss*, if you think you may have a loss on the sale.

Note: Forms 593-C and 593-L may only be used by sellers who are individuals. Sellers who are non-individuals (corporations, partnerships, limited liability companies, irrevocable trusts, and estates) must use Form 593-W, *Real Estate Withholding Exemption Certificate and Waiver Request for Non-Individual Sellers*. Revocable or grantor trusts should use Forms 593-C and 593-L when the grantor is an individual or Form 593-W when the grantor is a non-individual.

Who must withhold?

Although the law requires the buyer to withhold, the buyer can request the escrow company to do the withholding. We use the term *withholding agent* throughout these instructions to refer to either the escrow company or the buyer, whoever is taking responsibility for withholding.

What is real estate withholding?

Real estate withholding is:

- A prepayment of estimated income tax due from the gain on a sale of California real estate. If the amount withheld is more than the income tax liability, we will refund the difference when you file a tax return after the end of the year.
- Not an additional tax on the sale of real estate.

Why do we withhold?

We withhold to:

- Ensure payment of income tax owed on the taxable gain from the sale.
- Reduce the likelihood of penalties charged to the seller for underpayment of estimated tax.

Withholding agent instructions for sales by individuals

- Provide California Forms 593-C and 593-L, with instructions, to each individual seller as soon as escrow opens. We update our forms and instructions annually, so please make certain you use the most current form.
 - The seller should complete and sign Form 593-C, then return it to you.
 - If the seller checks "YES" to any item in Part II, we will not require withholding if you rely in good faith on the completed and signed certification regarding the property being transferred.
Note: The seller must complete Form 593-L, and show a loss on Line 20, before certifying that they will have a loss on the sale.
 - If the seller checks "YES" to any item in Part III, see the **Escrow Officer** information following the item.
 - If the seller checks "NO" to **all** of the boxes on Form 593-C, you must withhold the full 3 $\frac{1}{3}$ percent of the total sales price.

If you must partially withhold on one of the items in Part III or withhold on the total sales price, you must complete Form 597, *Real Estate Withholding Tax Statement*, and mail it to us. The Form 597 and withholding payment are due to the Franchise Tax Board by the 20th day of the month following the month that escrow closed. You must file a separate Form 597 for each seller with an amount withheld.

Please get Form 597 for further instructions.

- **Do not** send Form 593-C to the Franchise Tax Board. You should retain the form for five years following the close of the transaction. You must furnish the form to FTB upon request.

Contacting the Franchise Tax Board

To order California tax forms and publications:

By Internet: You can download, view, and print California income tax forms and publications. For real estate withholding forms, go to our Website at:

www.ftb.ca.gov/geninfo/wscs/forms.html

For other California income tax forms and publications, go to our Website at:

www.ftb.ca.gov

By automated phone service: Use this service to order California tax forms and current year federal forms. Have a paper and pencil ready to take notes.

From within the United States (800) 338-0505

From outside the United States (not toll-free) (916) 845-6600

Follow the recorded instructions. This service is available 24 hours a day, seven days a week.

By mail: Please allow two weeks to receive your order. If you live outside California, please allow three weeks to receive your order. Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

In person: Many California libraries, post offices, and banks provide free California personal income tax booklets during the filing season. Most libraries and some quick-print businesses have forms and schedules for you to photocopy (a nominal fee may apply). **Note:** Employees at libraries, post offices, banks, and quick-print businesses cannot provide tax information or assistance.

CONTACT US WITH REAL ESTATE WITHHOLDING QUESTIONS AT:

(888) 792-4900 or (916) 845-4900 (not toll-free)

Telephone assistance is available from 8 a.m. until 5 p.m. Monday through Friday.
We may modify these hours without notice to meet operational needs.

ASSISTANCE

(For state income tax issues unrelated to your real estate withholding)

Telephone assistance is available from 7 a.m. until 8 p.m. Monday through Friday and from 8 a.m. until 5 p.m. on Saturdays. We may modify these hours without notice to meet operational needs.

From within the United States, call (800) 852-5711

From outside the United States, call (not toll-free) (916) 845-6500

Website at: **www.ftb.ca.gov**

Assistance for persons with disabilities: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments, please call TTY/TDD (800) 822-6268.

Instructions for Form 593-C

Real Estate Withholding Certificate for Individual Sellers

Purpose

Use this form to determine if you meet any of the exemptions to withholding. Only sellers who are individuals (including individuals, who are grantors of revocable trusts) may use this form. Sellers, who are not individuals, must use Form 593-W, *Real Estate Withholding Exemption Certificate and Waiver Request for Non-Individual Sellers*.

Instructions

Complete Form 593-C and give it to your withholding agent. If you and your spouse are both on the title and intend to file a California joint income tax return, complete just one Form 593-C. Include both of your names, social security numbers, and signatures. However, if you are intending to file separate California income tax returns, each of you should complete a separate Form 593-C.

Note: Even if you qualify for a full exemption from withholding, you may still have to file a California tax return and pay any tax due on the sale of the California real estate.

Line 1 – Total Sales Price of Property

Indicate whether the total sales price of the California property is \$100,000 or less. Multiple sellers must use the total sales price, not just their ownership percentage.

Line 2 – Principal Residence

You generally must have owned and lived in the property as your main home for at least two years during the five-year period ending on the date of sale for the property to qualify as your principal residence under Internal Revenue Code Section 121. You can only have one main home at a time. If you have two homes and live in both of them, the main home is the one you lived in most of the time.

For more information, get federal Publication 523, *Selling Your Home*. You can get this form by accessing the Internal Revenue Service's Website at www.irs.gov, or by calling the IRS at (800) 829-3676.

Line 3 – Loss

You have a loss for California income tax purposes when the amount realized is less than your adjusted basis. **You must complete Form 593-L, *Real Estate Withholding — Computation of Gain or Loss*, and have a loss on line 20 to certify that you have a loss on this sale. You must attach the completed Form 593-L to Form 593-C if you are certifying that you have a loss.** You cannot certify that you have a loss just because you do not receive any proceeds from the sale or because you feel you are selling the property for less than what it is worth.

Line 4 – Involuntary Conversion

The property is being compulsorily or involuntarily converted when:

- The California real property is being transferred compulsorily or involuntarily within the meaning of Internal Revenue Code Section 1033, and
- The transferor (seller) intends to acquire property that is similar or related in service or use in order to be eligible for nonrecognition of gain for California income tax purposes.

Get federal Publication 544, *Sales and Other Dispositions of Assets*, for more information about involuntary conversions.

Line 5 – Simultaneous Exchange

If the California real property is part of a simultaneous exchange within the meaning of Internal Revenue Code Section 1031, the transfer is exempt from withholding. However, if the seller receives any proceeds (boot) from the sale, the withholding agent must withhold on that amount.

Line 6 – Deferred Exchange

If the California real property is part of a deferred exchange within the meaning of Internal Revenue Code Section 1031, the sale is exempt from withholding at the time of the initial transfer. The proceeds from the sale must be transferred directly to an intermediary or accommodator.

The intermediary or accommodator must withhold on any cash or cash equivalent (boot) received by the seller. If the exchange does not take place, or if the exchange does not qualify for nonrecognition treatment, the intermediary or accommodator will withhold $3\frac{1}{3}$ percent of the total sales price.

Line 7 – Installment Sale

You must withhold on the total sales price even if you complete the sale as an installment sale. However, the buyer may agree to withhold on each payment instead of withholding the full amount at the time of sale. The buyer must complete Form 593-I, *Real Estate Withholding Installment Sale Agreement*, to defer any of the withholding.

Part IV – Seller's Signature

You must sign this form for it to be valid. Otherwise, the withholding agent must withhold the full $3\frac{1}{3}$ percent of the total sales price.

Any transferor (seller) who, for the purpose of avoiding the withholding requirements, knowingly executes a false certificate is liable for a penalty of \$1,000 or 20 percent of the required withholding amount, whichever is greater.

2003

Real Estate Withholding Certificate for Individual Sellers

593-C

Part I Seller's Information

Return this form to your escrow company.

Name (including spouse, if applicable - see instructions - type or print)		Social security number
		Spouse's social security no. (if applicable)
Address	Private Mailbox no.	Note: If you do not furnish your tax ID number this certificate is void.
City, State, ZIP Code		Daytime number ()
Property address (if no street address, provide parcel number and county)		Ownership percentage

Read the following and check the appropriate box. (See line-by-line instructions.)

Part II – Certifications which fully exempt the sale from withholding:

YES NO

1. Is the total sales price of this property, before applying your percentage of ownership, \$100,000 or less? ☐ ☐
2. Does the property you are selling qualify as your principal residence within the meaning of Internal Revenue Code (IRC) Section 121? ☐ ☐
3. Will you have a loss for California income tax purposes on this sale? (You must complete Form 593-L, *Real Estate Withholding – Computation of Gain or Loss*, and have a loss on line 20 to answer "YES." Attach Form 593-L to this form if you answered "YES.") ☐ ☐
4. Is the real property being compulsorily or involuntarily converted and do you intend to acquire property that is similar or related in service or use in order to be eligible for nonrecognition of gain for California income tax purposes under IRC Section 1033? ☐ ☐

Part III – Certifications which may partially or fully exempt the sale from withholding or may defer withholding:

5. Will the transfer of this California real property qualify as a like-kind exchange within the meaning of IRC Section 1031 as a simultaneous exchange? ☐ ☐
Escrow Officer – If the seller answered "YES," there is still a withholding requirement on any proceeds the seller receives from the escrow.
6. Will the transfer of this California real property qualify as a like-kind exchange within the meaning of IRC Section 1031 as a deferred exchange for which all proceeds from the sale must be transferred directly to an intermediary or accommodator? ☐ ☐
Escrow Officer and Seller – We require the intermediary or accommodator to withhold from any cash or cash equivalent (boot) received by the seller. If the exchange does not take place, or if the exchange does not qualify for nonrecognition treatment, the intermediary or accommodator must withhold 3 1/3 percent of the total sales price of the real property sold.
7. Will the transfer of this California real property be an installment sale that you will report as such for California tax purposes and has the buyer agreed to withhold on each payment instead of withholding the full amount at the time of transfer? ☐ ☐
Escrow Officer – If the seller answered "YES," you may reduce the withholding amount to 3 1/3 percent of the down payment only if the buyer has completed and signed Form 593-I, *Real Estate Withholding Installment Sale Agreement*. You must attach Form 593-I to Form 597, *Real Estate Withholding Tax Statement*, when you send the withholding to the Franchise Tax Board.

Part IV – Seller's Signature

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent. I understand that completing this form does not exempt me from filing a California income tax return to report this sale.

Seller's name (type or print) _____

Spouse's name (if on title) _____

Seller's signature _____ Date: _____

Spouse's signature (if applicable) _____ Date: _____

Seller: If you answered "NO" to all the above questions, you are subject to the real estate withholding requirements. Your escrow officer will withhold and send the withholding to us on your behalf. Get your copies of Form 597, *Real Estate Withholding Tax Statement*, from the escrow officer to attach to your California income tax return when you file and claim the amount withheld.

Withholding Agent: If you are required to withhold, complete Form 597, *Real Estate Withholding Tax Statement*, and send one copy to us with the withholding payment and give two copies to the seller. Refer to Withholding Agent Instructions and the instructions for Form 597.

2003**Real Estate Withholding —
Computation of Gain or Loss****593-L****Adjusted Basis of the Property Sold** — Property address (if no street address, provide parcel number and county)**Caution:** If you acquired the property other than by purchase, see Table 1 on page 6 before you use this form.

- 1** Enter the purchase price of the property being sold **1** _____
- 2** Seller-paid points. (These are the points that the seller paid for you when you purchased the property. Do not include any seller-paid points you already subtracted to arrive at the amount entered on line 1, above.) **2** _____
- 3** Subtract line 2 from line 1 **3** _____
- 4** Settlement fees or closing costs.
- a** Abstract and recording fees **a** _____
- b** Legal fees (including title search and preparing contract and deed) **b** _____
- c** Surveys **c** _____
- d** Title insurance **d** _____
- e** Transfer or stamp taxes **e** _____
- f** Amounts the seller owed that you agreed to pay without reimbursement (back taxes or interest, recording or mortgage fees, and sales commissions) **f** _____
- g** Other **g** _____
- 5** Add line 4a through line 4g **5** _____
- 6** Basis. Add line 3 and line 5 **6** _____
- 7** Cost of additions and improvements. Do not include any additions and improvements included on line 1, above **7** _____
- 8** Special tax assessments paid for local improvements, such as streets and sidewalks **8** _____
- 9** Other increases to basis **9** _____
- 10** Add line 6 through line 9 **10** _____
- 11** Depreciation related to business use of the property. Enter the greater of: 1) the amount you claimed on your California income tax returns or 2) the amount you could have claimed for the years of business use **11** _____
- 12** Other decreases to basis **12** _____
- 13** Add line 11 and line 12 **13** _____
- 14** **Adjusted Basis** of the property sold. Subtract line 13 from line 10. Enter here and on line 18 **14** _____

Gain or Loss on the Sale

- 15** Selling price of the property in the current sale **15** _____
- 16** Selling expenses **16** _____
- 17** Amount Realized. Subtract line 16 from line 15 **17** _____
- 18** Adjusted basis of the property from line 14 **18** _____
- 19** If line 17 is larger than line 18, subtract line 18 from line 17. You have a **gain** on the sale. (You must check the "NO" box on Form 593-C, line 3. Escrow will withhold 3⅓ percent of the full sales price.) **19** _____
- 20** If line 18 is larger than line 17, subtract line 17 from line 18. You have a **loss** on the sale. (Check the "YES" box on Form 593-C, line 3.) **20** _____

Seller's Signature

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent. I understand that completing this form does not exempt me from filing a California income tax return to report this sale.

Seller's name (type or print) _____

Spouse's name (if on title) _____

Seller's signature _____ Date: _____

Spouse's signature (if applicable) _____ Date: _____

Instructions for Form 593-L

Real Estate Withholding – Computation of Gain or Loss

Purpose:

Use this form if you believe you may have a loss on the sale of your property for California income tax purposes.

What is a gain or loss for tax purposes?

The gain or loss for tax purposes is the gain or loss from the sale of this property that you will report on your California income tax return.

- If the sales price (less selling expenses) is more than your adjusted basis, you have a **gain** on the sale.
- If your adjusted basis is more than the sales price (less selling expenses), you have a **loss** on the sale.

What is your basis for the property?

The cost or purchase price of property is usually its basis for figuring gain or loss from its sale or other disposition. However, if you acquired the property by gift, inheritance, exchange, or in some way other than purchase, you must use a basis other than its cost. For more information, see Table 1 on page 6. You may also get federal Publication 551, *Basis of Assets*, or federal Publication 544, *Sales and Other Dispositions of Assets*.

What is your adjusted basis for the property?

The adjusted basis of property is:

Your original cost or other basis

Plus: Certain additions and improvements

Minus: Certain decreases (e.g., depreciation and casualty losses)

Equals: Adjusted Basis

How can you get federal publications?

Internet: www.irs.gov

Phone: (800) 829-1040

Mail: Western Area Distribution Center
Rancho Cordova CA 95743-0001

Line-by-line Instructions:

Line 1 – Purchase Price. If you acquired this property by purchase, enter your purchase price. Your purchase price includes the down payment and any debt; such as a first or second mortgage, or promissory notes you gave the seller in payment for the property. If you acquired the property by gift, inheritance, exchange, or any way other than purchase, see the instructions in Table 1 on page 6 before continuing.

Line 2 – Seller-Paid Points. Points are charges paid to obtain a loan. They may also be called loan origination fees, maximum loan charges, loan discount, or discount points. If the seller paid points for you when you acquired the property, enter the amount paid by the seller on your behalf on Line 2, unless you already subtracted this item to arrive at the amount for Line 1.

Line 4 – Settlement Fees or Closing Costs. Enter the settlement fees and closing costs you incurred when you bought the property. You cannot include fees and costs for getting a loan on the property. A fee for buying the property is any fee you would have to pay even if you paid cash for the property. Settlement fees **do not include** amounts placed in escrow for the future payment of items such as taxes and insurance.

Line 7 – Additions and Improvements. These add to the value of your property, prolong its useful life, or adapt it to new uses. Examples include: room additions, landscaping, new roof, insulation, new furnace or air conditioner, remodeling, etc. The cost of repairs may not be included unless they are part of an extensive remodeling or restoration project.

Line 8 – Assessments for Local Improvements. Enter the amount paid for special assessments for items such as water connections, paving roads, and building ditches that increase the property value.

Line 9 – Other Increases to Basis. Include the amounts paid for any other items that increase the basis of the property, such as the cost of restoring damaged property from a casualty loss, or cost of extending utility service lines to the property.

Line 11 – Depreciation. Enter the amount of depreciation you deducted, or could have deducted, on your tax returns under the method of depreciation you chose. If you took less depreciation on your tax return than you could have under the method chosen, you must enter the amount you could have taken under that method. If you did not take a depreciation deduction, enter the full amount of depreciation you could have taken. Get federal Publication 946, *How to Depreciate Property*, if you need more information.

Line 12 – Other Decreases to Basis. Include any other amounts that decrease your basis, such as:

- Casualty or theft loss deductions and insurance reimbursements,
- Energy credits claimed for the cost of energy improvements added to your basis, or

- Payments received for granting an easement or right-of-way.

Line 15 – Selling Price. The selling price is the total amount you receive for your property. It includes money, all notes, mortgages, or other debts assumed by the buyer as part of the sale, plus the fair market value of any other property or any services you receive.

Line 16 – Selling Expenses. Selling expenses include commissions, advertising fees, legal fees, and loan charges paid by the seller, such as loan placement fees or points.

Line 17 – Amount Realized. The amount realized is the selling price minus the selling expenses.

Line 19 – Gain on Sale. If the amount realized (Line 17) is more than the adjusted basis (Line 18), the difference is your gain on the sale. You must check the “NO” box on Form 593-C, Line 3. You will be subject to the full 3 $\frac{1}{3}$ percent withholding on the total sales price.

Line 20 – Loss on Sale. If the amount realized (Line 17) is less than the adjusted basis (Line 18), the difference is your loss on the sale. Check the “YES” box on Form 593-C, Line 3. Sign and attach this Form 593-L to Form 593-C and give both forms to your escrow officer. You will not be subject to withholding on this sale.

Table 1. How to Complete Form 593-L When You Did Not Purchase the Property

(Note: These procedures only reflect the general rules. Exceptions may apply. Get federal Publication 551, *Basis of Assets*, for more information on these or other special situations.)

Property was received as a gift	<p>Usually, your basis is the donor's adjusted basis at the time of the gift. Skip line 1 through line 5 and enter the donor's adjusted basis on line 6. Then complete the rest of the form with your information after you received the property.</p> <p>Note: If the fair market value of the property at the time of the gift was less than the donor's adjusted basis, get federal Publication 551 to determine your basis.</p>
Property was inherited from someone other than your spouse	<p>Usually, your basis is the fair market value at the date of the individual's death. You can get that valuation from probate documents, or if there was no probate, use the appraised value at the date of death. Skip line 1 through line 5 and enter the fair market value on line 6. Then complete the rest of the form with your information after you received the property.</p> <p>Note: If you or your spouse originally gave the property to the decedent within one year of the decedent's death, get federal Publication 551 to determine your basis.</p>
You owned the property (as community property) with your spouse who died	<p>Your full basis is the fair market value of the total property at the date of your spouse's death. Skip line 1 through line 5 and enter the fair market value on line 6. Then complete the rest of the form with your information after the date of death.</p>
You owned the property (in joint tenancy) with your spouse who died	<p>Your basis is the sum of: 1) the <u>fair market value</u> of your spouse's half of the property at the date of your spouse's death; and, 2) the <u>existing basis</u> of your half of the property at the date of your spouse's death. Skip line 1 through line 5 and enter the sum on line 6. Then complete the rest of the form with your information after the date of death.</p>
Property received from your spouse incident to your divorce	<p>Usually, your basis is the same as it would have been without this transfer. Complete Form 593-L as if you had been the only owner before and after the transfer.</p> <p>Note: If your spouse transferred the property to you before July 18, 1984, get federal Publication 551 to determine your basis.</p>
Property received in exchange for other property	<p>Your basis will depend on whether you received the property in a nontaxable, taxable, or partially taxable exchange. Get federal Publication 551 to determine your basis. Enter your basis on line 1. Then complete the rest of Form 593-L. However, do not include any amounts in line 2 through line 5 that you included in line 1.</p>
You built the house (or other improvements) on the property being sold	<p>Add the purchase price of the land and the cost of the building. Enter the total on line 1 of Form 593-L and complete the rest of the form.</p> <p>Note: If you deferred the gain from a previous home to this property, get federal Publication 551.</p>